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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,459	12/14/2001	Gregorius Maria hubertus Goyarts	GOY3	1708

7590

03/25/2003

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 03/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/022,459

Applicant(s)

GOYARTS, GREGORIUS MARIA  
HUBERTUS

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 9-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, drawn to an absorbent article, classified in class 604, subclass 385.15.
- II. Claims 9-19, drawn to a method of making an absorbent article, classified in class 156, subclass 60.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the absorbent article can be made by a process in which the perforations are provided in the moisture absorption element prior to formation of the article.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

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During a telephone conversation with Todd Deveau on 30 January 2003 a provisional election was made without traverse to prosecute the invention of the absorbent article, claims 1-8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the absorption element" in line 9. There is insufficient antecedent basis for this limitation in the claim. Elsewhere, the moisture-absorption element is disclosed.

Claim 1 recites the limitation "bonding is present between the moisture-permeable top-layer material and the moisture-impermeable bottom-layer material via perforations" in lines 15-17. It is unclear whether the perforations result in the bonding of the top-layer and the bottom-layer, or whether the top and bottom layers are bonded together in the void space created by perforations in the absorption element.

Claim 3 recites the limitation "the moisture-absorbing element" in line 2. There is insufficient antecedent basis for this limitation in the claim. Elsewhere, the moisture-absorption element is disclosed.

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Claim 8 recites the limitation "the border regions thereof" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. A border has been disclosed in claim 4, but claim 8 does not depend from claim 4. Further, it is unclear to what "thereof" refers.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mavinkurve (5,275,591) in view of Tanzer et al. (5,562,645).

Mavinkurve discloses all aspects of the claimed invention, but remains silent as to the bonding between the moisture-absorption element and the moisture-permeable top-layer material. Mavinkurve discloses a pad 100, as shown in figure 1, which is capable of being washed. The pad 100 comprises an assembly of a moisture-absorption element 34, a moisture-permeable top-layer material 32, and a moisture-impermeable bottom-layer material 36, as shown in figure 3. The moisture-absorption element 34 and the moisture-impermeable bottom-layer material 36 are joined together, as disclosed in column 6, lines 18-19. The top-layer material 32 and bottom-layer material 36 are bonded together at bonding points 10 which are present in perforations in the moisture-absorption element 34, as shown in figure 1.

Tanzer discloses a pad 10, as shown in figure 1, comprising an assembly of a moisture-absorption element 46, a moisture-permeable top-layer material 28, and a moisture-impermeable bottom-layer material 30. The top-layer material 28 is locally bonded to the moisture-absorption element 46, as described in column 12, lines 34-37. The local bonding, or spot coating, allows for suitable bonding between the layers without excessive use of adhesive, which may decrease the permeability of the top-layer material 28, as described in column 12, lines 39-42.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to bond the top-layer material and the moisture-absorption element of Mavinkurve by local bonding, as taught by Tanzer, to provide a strong bond without decreasing the permeability of the top-layer material.

With respect to claim 2, Mavinkurve discloses a suitable adhesive for attachment of the layers of the pad 100 as being thermoplastic material, as described in column 7, lines 53-59.

With respect to claim 3, the moisture-absorption element 34 comprises moisture-absorbent fibers, as described in column 5, lines 25-31, and a moisture-dispersing layer 31, as shown in figure 3.

With respect to claim 4, a border finish 40, 42, as shown in figure 4, is present. The top-layer material 32 and bottom-layer material 36 are bonded to one another around the periphery of the pad 100, as described in column 5, lines 55-58.

With respect to claim 5, thermoplastic material 63, 64 is applied to the bottom surface of the top-layer material 32 and the top surface of the bottom-layer material 36,

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as shown in figure 7. The thermoplastic material 63, 64 promotes bonding between the top-layer material 32 and bottom-layer material 36, as described in column 7, lines 19-37.

With respect to claim 7, the top surface of the bottom-layer material 36 is coated with a layer of bonding material 64, which bonds the bottom-layer material 36 and the moisture-absorption element 34 together, as described in column 6, lines 18-19.

With respect to claim 8, the bottom-layer material 36 bears against and bonds to the top-layer material 32, as described in column 5, lines 55-58.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mavinkurve (5,275,591) in view of Tanzer et al. (5,562,645), and further in view of De Carvalho et al. (5,962,106).

Mavinkurve, as modified by Tanzer, discloses all aspects of the claimed invention with the exception of the bottom-layer material being turned over onto the top surface of the top-layer material and bonded thereto.

De Carvalho discloses a pad 1, as shown in figure 1, comprising an assembly of a moisture-absorption element 2, a moisture-permeable top-layer material 7, and a moisture-impermeable bottom-layer material 5, as described in column 4, lines 5-7. The bottom-layer material 5 is folded over onto the top surface of the top-layer material 7, as shown in figure 2. Folding the bottom-layer material 5 over onto the top surface provides improved leak prevention, as described in column 3, lines 25-27.

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It would therefore be obvious to one of ordinary skill in the art at the time of invention to fold the bottom-layer material of Mavinkurve over onto the top surface of the top-layer material, as taught by De Carvalho, to provide improved leak prevention.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 5,399,175; 5,556,393; 5,868,725; 5,954,705; and 6,293,933 pertain to pads comprising top-layer material bonded to bottom-layer material through perforations in a moisture-absorption element.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

CuA

cla

March 19, 2003



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